IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

WP(C).No. 10979 of 2006(F)

PETITIONER:

V.R.DILEEP KUMAR, CLERK,
ALAPPUZHA DISTRICT CO-OPERATIVE BANK LTD.,
CHERTHALA MAIN BRANCH, CHERTHALA TALUK,
ALAPPUZHA DISTRICT.

BY ADV. DR.V.N.SANKARJEE
SRI.V.N.MADHUSUDANAN
SMT.R.UDAYA JYOTHI
SRI.T.JAYAKRISHNAN.

RESPONDENTS:

---

1. GENERAL MANAGER, ALAPPUZHA DISTRICT
CO-OPERATIVE BANK LTD., ALAPPUZHA.

2. SECRETARY, CHERTHALA TALUK AIDED
PRIMARY TEACHERS CO-OPERATIVE SOCIETY LTD.
NO.A-272, CHERTHALA, ALAPPUZHA DISTRICT.
ADDL. R3 IMPLEADED.

3. M.M. VINOD, S/O. MUKUNDAN,
AGED ABOUT 32, MALIKATHARA HOUSE,
THURAVOOR T.D. POST, PIN 688540,
KUTHIYATHODE VILLAGE, CHERTHALA TALUK.
ADDL. R3 IMPLEADED AS PER ORDER DTD. 4.12.2006 IN I.A. 16894/06.

BY ADV. SRI.JOY THATTIL ITTOOP
SRI.C.J.VARGHESE
SRI.C.P.PRADEEP
R3 BY ADV. SRI.V.G.ARUN
SRI.T.R.HARIKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

- -

WP.(C) No.10979 of 2006

- -

Dated this the 1st day of June, 2007

JUDGMENT

Case of the petitioner in brief is as follows:

The second respondent was conducting monthly investment scheme under the name 'Gurupriya'. The additional third respondent deposited a sum of Rs.36,000/-. The additional third respondent availed a loan of Rs.50,000/-. Petitioner stood as surety for the additional third respondent. He remitted a sum of Rs.45,000/- on 10.3.2005 as evidenced by Ext.P1 receipt. In Ext.P1 receipt it is stated that an amount of Rs.30,581/- is outstanding as loan. It is the case of the petitioner that the additional third respondent made a request in writing to close his loan account by adjusting the deposit of Rs.36,000/- and by paying the balance. Second respondent initiated proceedings to recover Rs.38,350/- from the salary of the petitioner. Petitioner thereupon issued a lawyer notice to the second respondent. He made Ext.P4 representation also. Ext.P5 is the report submitted by the Executive Officer of the first respondent Bank.

2. When this matter came up today, learned counsel appearing on behalf of the additional third respondent, namely the principal debtor, would submit that the principal debtor has no objection in adjusting the entire amount of the Fixed Deposit towards the loan. Counsel for the second respondent also submits that if the additional third respondent has no objection in adjusting the amount in the Fixed Account towards the loan, the second respondent will adjust the entire amount towards the loan account.

In the light of this submission by respondents 2 and 3, all that remains is that if after adjusting the said amount, if any amount still remains to be paid, needless to say, it is open to the second respondent to recover the same in accordance with law. If petitioner has a claim for refund of any amount, it is for him to work out his remedies before the authorities.

The writ petition is disposed of as above.

(K.M. JOSEPH, JUDGE)

sb